

(b) *Notice requirements.* System institutions must provide written notice to FCA so that the notice is received by FCA no later than 10 business days in advance of making an equity investment in a UBE for authorized UBE business activity described in paragraph (a) of this section. The notice must include:

(1) The UBE's articles of formation, including its name and the State in which it is organized, length of time it will exist, its partners or members, and its management structure;

(2) The dollar amount of the System institution's equity investment in the UBE;

(3) A certified resolution of the System institution's board of directors authorizing the equity investment in, and business activity of, the UBE and the board's approval to submit the notice to the FCA. For UBEs organized to acquire and manage unusual or complex collateral associated with loans as identified in paragraph (a)(1) of this section, the board of directors may adopt a blanket board resolution to cover all such UBEs that the System institution will organize.

(4) Except for those UBEs identified in paragraph (a)(1) of this section, a board statement included with the certified board resolution affirming that the UBE:

(i) Is needed to achieve operating efficiencies and benefits;

(ii) Is necessary or expedient to the System institution's business;

(iii) Will operate with transparency;

(iv) Will conduct its business activity in a manner designed to prevent conflicts of interest between its purpose and operations and the mission and operations of the System institution(s);

(v) Will otherwise be in compliance with applicable Federal, State, and local laws; and

(vi) Will not be used by the System institution to make direct loans; perform any functions or provide any services that the System institution is not authorized to perform or provide under the Act and FCA regulations; or to exceed the stated purpose of the UBE as set forth in its articles of formation.

(5) A letter from the funding bank that it has approved the institution's equity investment in the UBE. For

those UBEs organized to acquire and manage unusual or complex collateral associated with loans as identified in paragraph (a)(1) of this section, the funding bank may provide a blanket approval letter to cover all such UBEs that its district associations may invest in or organize.

(6) Any additional information the System institution wishes to submit.

(c) *Supplementation or omission of information.* FCA may require the supplementation or allow the omission of any information required under paragraph (b) of this section.

(d) *Other requirements.* A System institution may not organize or invest in those UBEs identified in paragraph (a) of this section if the FCA notifies the institution before the end of the 10 business day advance notice period that such investment requires FCA approval under the provisions of §611.1155.

§611.1155 Approval of equity investments in UBEs.

(a) *Request.* System institutions must receive FCA approval before organizing or investing in any UBE that does not qualify for the notice provision set forth in §611.1154(a). A request for approval under this section must include the following information:

(1) A detailed statement of the risk characteristics of the investment, as required by §615.5140(e) of this chapter and the initial amount of equity investment;

(2) A detailed statement on the purpose and objectives of the UBE; the need for the UBE and the operating efficiencies and benefits that will be achieved by using the UBE;

(3) The proposed articles of formation addressing, at a minimum, the following:

(i) The UBE's name, the State in which it is organized, the city and State in which its principal office is to be located, and its partners or members and management structure;

(ii) Specific business activities that the UBE will conduct;

(iii) General powers of the UBE;

(iv) Ownership, voting, partnership, membership and operating agreements for the UBE;

Farm Credit Administration

§611.1158

(v) Procedures to adopt and amend the partnership, membership or operating agreement of the UBE;

(vi) The standards and procedures for the application and distribution of the UBE's earnings; and

(vii) Length of time the UBE will exist.

(4) A certified resolution of the System institution's board of directors authorizing the equity investment in the UBE and the UBE business activity and the board's approval to submit the request to the FCA. The certified board resolution must include a board statement affirming that the UBE:

(i) Is necessary or expedient to the System institution's business;

(ii) Will operate with transparency;

(iii) Will conduct its business activity in a manner designed to prevent conflicts of interest between its purpose and operations and the mission and operations of the System institution(s);

(iv) Will comply with applicable Federal, State, and local laws; and

(v) Will not be used by the System institution to make direct loans; perform any functions or provide any services that the System institution is not authorized to perform or provide under the Act and FCA regulations; or exceed the purpose of the UBE as stated in its articles of formation.

(5) A letter from the funding bank that it has approved the institution's equity investment in the UBE;

(6) Any additional information the System institution wishes to submit.

(b) *Supplementation or omission of information.* FCA may require the supplementation or allow the omission of any information required under paragraph (a) of this section based on the complex or noncomplex nature of the proposed UBE.

(c) *Denial of a request.* The FCA will specify in writing to the submitting System institutions the reasons for denial of any request to organize or invest in a UBE.

§611.1156 Ongoing requirements.

A System institution that organizes or invests in a UBE must also comply with the following requirements:

(a) Maintain and ensure FCA's access to all books, papers, records, agree-

ments, reports and other documents of each UBE necessary to document and protect the institution's interest in each entity;

(b) Divest, as soon as practicable, the institution's equity or beneficial interest in, and sever any relationship with a UBE:

(1) That conducts activities beyond those authorized to carry out its limited purpose or that are contrary to the Act or FCA regulations, or as otherwise directed to do so by FCA; or

(2) Where non-System persons or entities obtain control as defined under GAAP. This paragraph does not apply to UBEs formed for the purpose of acquiring and managing unusual or complex collateral associated with multiple-lender loan transactions in which non-System persons or entities are participants.

§611.1157 Disclosure and reporting requirements.

(a) *Annual report to shareholders.* In its annual report to shareholders, as set forth in §620.5(a)(12) of this chapter, a System institution must provide information on its UBE investment and business activity.

(b) *Periodic reports as directed.* As directed by FCA, a System institution must submit periodic reports to FCA on any equity investment in a UBE or UBE status as provided under §621.12 of this chapter, and in accordance with §§621.13 and 621.14 of this chapter.

(c) *Dissolution of a UBE.* A System institution must submit a timely report to FCA on the dissolution of a UBE that it controls.

§611.1158 Grandfather provision.

(a) *Scope.* The following equity investments in UBEs are grandfathered from the Notice and Approval provisions under §§611.1154 and 611.1155, respectively.

(1) Those UBE formations or equity investments that received specific, written approval by FCA prior to the effective date of this regulation; and

(2) Those UBE formations or equity investments that occurred prior to the effective date of this regulation to acquire or manage unusual or complex collateral associated with loans.